

File: Export Controls

S 2252

## CONGRESSIONAL RECORD — SENATE

March 2, 1984

the hour of 3 p.m. in which Senators may speak for not more than 10 minutes each, with the exception of the minority leader against whom no limitation of time will apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

## S. 979—EXPORT ADMINISTRATION ACT AMENDMENTS

Yesterday, March 1, 1984, at page S2143 of the RECORD, the Senate passed the Export Administration Act amendments (S. 979). The text of the bill as passed by the Senate follows:

## S. 979

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Export Administration Act Amendments of 1984".*

## FINDINGS

SEC. 2. Section 2 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (6) and inserting in lieu thereof the following:

"(6) Uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the trade balance of the United States."; and

(2) by adding at the end of the section the following new paragraphs:

"(10) The transfer of national security sensitive technology and goods to the Soviet Union and other countries where actions or policies are adverse to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, its allies, and other friendly nations, and increasing the defense budget of the United States;

"(11) Availability from foreign sources of goods and technology to destinations proscribed for national security purposes by the United States is a fundamental concern of the United States and should be eliminated whenever possible;

"(12) Imports that contribute to the excessive dependence of the United States, its allies, or countries sharing common strategic objectives, on energy resources, and other critical resources from potential adversaries can be harmful to those countries' mutual and individual security;

"(13) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology which could make a contribution to the military or economic potential of any country or combination of countries which would be detrimental to the national security of the United States."

## DECLARATION OF POLICY

SEC. 3. Section 3 of the Export Administration Act of 1979 is amended—

(1) in paragraph (3), by striking out the period after "commitments" and inserting in lieu thereof "or common strategic objectives";

(2) in paragraph (7), by striking "every reasonable effort" in the second sentence and inserting in lieu thereof "reasonable and prompt efforts", and by striking "resorting to the imposition of controls on exports from the United States" in the second sentence and inserting in lieu thereof "imposing export controls";

(3) in paragraph (8), by striking "every reasonable effort" in the second sentence

and inserting in lieu thereof, "reasonable and prompt efforts", and by striking "resorting to the imposition of export controls" at the end of the paragraph and inserting in lieu thereof "imposing export controls";

(4) in paragraph (9), by inserting "or common strategic objectives" after "commitments" each time it appears; and

(5) by adding after paragraph (11) the following:

"(12) It is the policy of the United States to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

"(13) It is the policy of the United States to sustain vigorous scientific enterprise. To do so involves sustaining the ability of scientists and other scholars freely to communicate their nonsensitive research findings by means of publication, teaching, conferences, and other forms of scholarly exchange.

"(14) It is the policy of the United States to encourage countries who are allies of the United States to minimize their dependence on imports of energy resources and other critical resources from potential adversaries. Multilateral controls on exports of critical energy equipment and technology and promotion of other appropriate measures such as the development of alternative supplies can play an important role in the achievement of this objective. It is further the policy of the United States to minimize strategic threats posed by excessive hard currency earnings derived from such energy and critical resource exports by countries with policies adverse to the security interests of the United States.

"(15) It is the policy of the United States, particularly in light of the Soviet massacre of innocent men, women, and children aboard KAL flight 7, to maintain the policy instituted after the Soviet invasion of Afghanistan of disallowing United States exceptions to the COCOM list for the Union of Soviet Socialist Republics."

## GENERAL PROVISIONS

SEC. 4. Section 4 of the Export Administration Act of 1979 is amended—

(1) in subsection (a) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) Validated licenses authorizing multiple exports, issued pursuant to an application by the exporter, in lieu of an individual validated license for each such export, including, but not limited to the following:

"(A) A distribution license, authorizing exports of goods to approved distributors or users of the goods in countries other than countries to which exports are controlled pursuant to section 5(b) of this Act. The Secretary shall grant the distribution license primarily on the basis of the reliability of the applicant and foreign consignees with respect to the prevention of diversion of goods to proscribed destinations, and in doing so shall have the responsibility of determining, with the assistance of all appropriate agencies, the reliability of applicants and their immediate consignees. Such determination shall be based on appropriate investigations of each applicant and periodic reviews of licensees and their compliance with the terms of licenses. Factors such as the applicant's products or volume of business, or the consignees' geographic location, sales distribution area or degree of foreign ownership, which may be relevant with respect to individual cases, shall not be determinative in creating categories or general criteria for the denial of applications or withdrawal of licenses;

"(B) A comprehensive operations license, authorizing exports and reexports of tech-

nology and related goods, including items on the list of militarily critical technologies developed pursuant to section 5(d) of this Act, from a domestic concern to and among its subsidiaries, affiliates, or other approved consignees that have long-term, contractually defined relations with the exporter. The Secretary shall grant the license to manufacturing, laboratory, or related operations on the basis of approval of the exporter's system of control, including internal proprietary controls, applicable to the technology and related goods to be exported rather than approval of individual export transactions. The Commissioner of Customs, in cooperation with the Secretary periodically, but not less frequently than annually, shall perform audits of these licensing procedures to assure their integrity and effectiveness."

(2) by adding at the end of subsection (a) the following: "In no case may a distribution license or a comprehensive operations license be used in connection with exports to proscribed destinations."

(3) in subsection (b), by striking "commodity" each time it appears, and by striking "consisting of any goods or technology subject to export controls under this Act." and inserting in lieu thereof "stating license requirements for exports of goods and technologies to all destinations to which such exports are controlled under this Act."

(4) in subsection (c), by striking "significant" and inserting in lieu thereof "comparable", and by inserting after "those produced in the United States," the following: "so as to render the controls ineffective in achieving their purposes,"

(5) by adding at the end of subsection (c) the following: "In complying with the provisions of this subsection the President shall give strong emphasis to bilateral or multilateral negotiations to eliminate foreign availability. The Secretary and the Secretary of Defense shall cooperate in the gathering and assessment of information relating to foreign availability, including the establishment and maintenance of a jointly operated computer system."; and

(6) by striking subsection (f) and inserting in lieu thereof the following:

"(f) NOTIFICATION OF THE PUBLIC: CONSULTATION WITH BUSINESS.—(1) The Secretary shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Secretary shall meet regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or impacted by export controls, on the United States export control policy and the foreign availability of goods and technology.

"(2) In carrying out the provisions of this Act, the Secretary shall consult on a continuing basis with the advisory committees established under section 135 of the Trade Act of 1974.

"(g) STUDY ON THE DELEGATION OF LICENSING AUTHORITY.—The Secretary of Commerce shall conduct a study to determine the feasibility of permitting International Trade Administration district offices to review and issue validated export license applications for those categories of goods and technology identified by the Secretary as nonsensitive which are to be exported for use in any COCOM country, Australia, or New Zealand. The Secretary shall report the results of the study by November 1, 1984, to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs."

## NATIONAL SECURITY CONTROLS

SEC. 5. Section 5 of the Export Administration Act of 1979 is amended—

March 2, 1984

## CONGRESSIONAL RECORD — SENATE

S 2253

(1) by inserting after the first sentence of subsection (a)(1) the following: "This authority includes the power to prohibit or curtail reexports of such goods and technologies and the transfer of goods or technologies within the United States to embassies and affiliates of countries to which exports of these goods or technologies are controlled.";

(2) in subsection (a)(2), by striking "(A)", and by striking paragraph (B) in its entirety;

(3) in subsection (a)(3), by striking the last sentence;

(4) in subsection (b) by inserting after "as", the following: "whether its policies are adverse to the national security interests of the United States.";

(5) in subsection (c), by striking "commodity" in paragraph (1) and by striking paragraph (3) and inserting in lieu thereof the following:

"(3) The Secretary shall review the list established pursuant to this subsection at least once each year in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. The Secretary shall publish notice of each annual review in the Federal Register before he begins such review, provide opportunity for comment and submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties during such review, and publish any revisions in the list, with an explanation of the reasons therefor, in the Federal Register. The Secretary shall further assess, as part of such review, the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled under this section.";

(6) in subsection (d)(2), by striking "and" at the end of subparagraph (B), by adding "and" at the end of subparagraph (C), and by inserting after subparagraph (C) a new subparagraph (D), as follows:

"(D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would reveal or give insight into a United States military system and would thereby facilitate either the design and manufacture of that system or the development of countermeasures against that system.";

(7) in paragraph (2) of subsection (d), by inserting after "possessed by" the following: "or available in fact from sources outside the United States to";

(8) in paragraph (4) of subsection (d), by striking "October 1, 1980" and inserting in lieu thereof "January 1, 1985";

(9) in paragraph (5), by striking "The" and inserting in lieu thereof "Items on the"; by striking "commodity", and by inserting "and subsection (f)" after "subsection (c)";

(10) in paragraph (6) of subsection (d) by striking "subsection" and inserting in lieu thereof "section";

(11) by adding at the end of subsection (d) a new paragraph (7) as follows:

"(7) The establishment of adequate export controls for militarily critical technology and keystone equipment shall be accompanied by suitable reductions in the controls over the products of that technology and equipment.";

(12) in paragraph (1) of subsection (e), by striking "a qualified general license" and inserting in lieu thereof "the multiple validated export licenses described in section 4(a)(2) of this Act; and in the same para-

graph by striking "a" after "in lieu of" and inserting in lieu thereof "an individual";

(13) by striking paragraphs (3) and (4) of subsection (e) and inserting in lieu thereof the following:

"(3) The Secretary shall require only a general license in lieu of a multiple or individual validated license under this section for the export of goods or technology to countries party to a multilateral agreement, formal or informal, to which the United States is a party, or to countries party to a comparable bilateral agreement with the United States, if the export of such goods or technology is restricted pursuant to such multilateral or bilateral agreement, unless the goods or technology are included on the list of military critical technologies developed pursuant to subsection (d) and included on the control list as provided for under subsection (d)(5) of this section, in which case the Secretary may require a multiple or individual validated license.

"(4) The Secretary, subject to the provisions of subsection (1), shall not require an individual validated export license for replacement parts which are exported to replace on a one-for-one basis parts that were in a commodity that has been lawfully exported from the United States.

"(5) The Secretary shall periodically review the various special licensing procedures, taking appropriate action to increase their utilization by reducing qualification requirements or lowering minimum thresholds, to combine procedures which overlap, and to eliminate those procedures which appear to be of marginal utility.";

(14) in paragraph (1) of subsection (f), by inserting after "The Secretary, in consultation with" the following: "the Secretary of Defense and other";

(15) in paragraphs (1) and (2) of subsection (f), by striking "sufficient" each time it appears and inserting in lieu thereof "comparable";

(16) in subsection (f), by striking paragraph (3) and inserting in lieu thereof the following:

"(3) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on his own initiative or upon receipt of an allegation that such availability exists from an export license applicant. The Secretary shall accept the applicant's representations made in writing and supported by evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. Determination of foreign availability by the Secretary may include but not be limited to consideration of the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technical data packages, backup packages, durability, quality of end products produced by the item proposed for export, and scale of production.";

(17) in subsection (f), by adding a new paragraph (7) as follows:

"(7) The Secretary shall make a foreign availability determination under paragraph (1) upon request of the appropriate technical advisory committee established by subsection (h)(1) of this section. The Secretary shall treat the representations of the technical advisory committee in the manner provided in paragraph (3).";

(18) in paragraph (4) of subsection (f), by striking "take steps to initiate" and inserting in lieu thereof, "actively pursue";

(19) by striking subsection (g) and inserting in lieu thereof the following:

"(g) INDEXING.—In order to ensure that requirements for validated licenses and multiple export licenses are periodically removed

as goods or technology subject to such requirements becomes obsolete with respect to the national security of the United States, regulations issued by the Secretary may, where appropriate, provide for annual increases in the performance levels of goods or technology subject to any such licensing requirement. The regulations issued by the Secretary shall establish as one criterion for the removal of goods or technology the anticipated needs of the military of countries to which exports are controlled for national security purposes. Any such goods or technology which no longer meets the performance levels established by the regulations shall be removed from the list established pursuant to subsection (c) of this section unless, under such exceptions and under such procedures as the Secretary shall prescribe, any other department or agency of the United States objects to such removal and the Secretary determines, on the basis of such objection, that the goods or technology shall not be removed from the list. The Secretary shall also consider, where appropriate, removing site visitation requirements for goods and technology which are removed from the list unless objections described in this subsection are raised.";

(20) in paragraph (1) of subsection (h), by adding after "Departments of Commerce, Defense, and State" the following: "the intelligence community.";

(21) in paragraph (2) of subsection (h), by striking "and" at the end of paragraph (C), by striking the period at the end of subparagraph (D) and inserting in lieu thereof a comma and the following: "and (E) any other questions relating to actions designed to carry out the policy set forth in section 3(2)(A) of this Act.";

(22) by striking paragraph (6) of subsection (h);

(23) in subsection (i), by striking paragraph (3);

(24) in subsection (i)(4), by striking "(4)" and inserting in lieu thereof "(3)", and by striking "pursuant to paragraph (3)" and inserting in lieu thereof "by the members of the Committee.";

(25) in subsection (i), by adding new paragraphs (4), (5), and (6) as follows:

"(4) Agreement to accord the current multilateral agreement treaty status.

"(5) Agreement to improve the International Control List and minimize the approval of exceptions to that list, strengthen enforcement and cooperation in enforcement efforts, provide sufficient funding for COCOM, and improve the structure and functions of the COCOM Secretariat by upgrading professional staff, translation services, data base maintenance, communications and facilities.

"(6) Agreement to strengthen COCOM so that it functions effectively in controlling export trade in a manner that better protects the national security of each participant to the mutual benefit of all.";

(26) by striking subsection (j) and inserting in lieu thereof the following:

"(j) COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which calls for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency with sufficient detail to the Secretary.

"(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other

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S 2254

## • CONGRESSIONAL RECORD — SENATE

March 2, 1984

educational institutions, except where the unpublished technical data involve a technology identified by the Secretary of Defense as a militarily critical technology.

(27) in subsection (k), by adding after "with other countries" the following: "including those countries not participating in the group known as the Coordinating Committee," and by adding at the end thereof the following: "In cases where such negotiations produce agreement on export restrictions comparable in practice to those maintained by the Coordinating Committee, the Secretary shall treat exports to countries party to such agreements in the same manner as exports to members of the Coordinating Committee are treated."

(28) by striking subsection (l) and inserting in lieu thereof the following:

"(l) **DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.**—Whenever there is reliable evidence, as determined by the Secretary, that goods or technology which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Secretary for as long as that diversion continues—

"(A) shall deny all further exports to or by the party or parties who divert or conspire to divert any goods or technology subject to national security controls under this section to an unauthorized use or consignee regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) may take such additional steps under this Act with respect to the party or parties referred to in subparagraph (A) as he determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

"(2) As used in this subsection, the term 'diversion to an unauthorized use or consignee' means the use of United States goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the United States Munitions List, or the transfer of United States goods or technology to any consignee or end user engaged in or contributing to such design, production, or maintenance, or the military use of any item on the COCOM list." and

(29) by adding the following new subsections:

"(m) **SECURITY MEASURES.**—The Commissioner of Customs, in consultation with the Secretary and the Director of the Federal Bureau of Investigation, shall provide advice and technical assistance to persons engaged in the manufacture or handling of goods or technology subject to controls under this section to develop security systems to prevent violations or evasion of controls imposed under this section.

"(n) **RECORDKEEPING.**—The Secretary, the Secretary of Defense, and any other department or agency consulted in connection with a license application or revision of a list of controlled commodities, goods, or technologies, shall make and keep records of their respective advice, recommendations, or decisions, including the factual and analytical basis of the advice, recommendations, or decisions.

"(o) **NATIONAL SECURITY CONTROL AGENCY.**—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there shall be established within the office of the Under Secretary of Defense for Policy a National Security Control Agency. The Secretary of Defense may delegate such of those authorities and responsi-

bilities, together with such ancillary functions, as he may deem appropriate to the Agency.

"(p) **EXCLUSION FOR AGRICULTURAL COMMODITIES.**—This section does not authorize export controls on agricultural commodities, including fats and oils or animal hides and skins.

"(q) **CONTROLS ON EXPORTS TO CERTAIN NUCLEAR POWER.**—(1) Notwithstanding any other provision of this section, the President shall require an individual validated license for export of United States goods or technology, or by persons subject to United States jurisdiction, the ultimate destination of which is a country possessing nuclear weapons, unless such country is a member of the North Atlantic Treaty Organization or Israel or has ratified and is in full compliance with the requirements of the Nuclear Non-Proliferation Treaty.

"(2) The President may waive this requirement with regard to specific exports or classes of exports to such country if he certifies to Congress in writing that—

"(A) such country, or any of its agents or representatives, for the preceding twelve-month period has not obtained or endeavored to obtain United States goods or technology, or exports directly or indirectly from persons subject to United States jurisdiction, in violation of this Act, the Arms Export Control Act of 1976, or the Atomic Energy Act of 1954, or any rules and regulations issued pursuant to any of these Acts;

"(B) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of, nuclear weapons or the real or potential delivery systems of such weapons;

"(C) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential antisubmarine warfare systems;

"(D) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential electronic warfare systems;

"(E) such export or class of exports cannot be used to contribute to the ability of such country to manufacture, employ, or enhance the capability or effectiveness of real or potential intelligence gathering systems; and

"(F) it is in the national security and foreign policy interests of the United States that this requirement be waived, particularly that such waiver will not be detrimental to the security of our allies.

Any waiver of this paragraph shall remain in effect for not more than one year from the date of the President's certification to the Congress as provided for by this subsection and may be renewed for subsequent one-year periods should the President at the time of such renewal make the certification to the Congress as required by this subsection. The President may rescind such waiver at any time.

"(3) The provisions of this subsection shall apply only to exports to such countries which are also controlled by validated licenses pursuant to this section for export to group Y countries as defined by the Export Administration regulations."

## FOREIGN POLICY CONTROLS

SEC. 6. Section 6 of the Export Administration Act of 1979 is amended—

(1) by inserting after the first sentence of paragraph (1) of subsection (a) the following: "Whenever the authority conferred by this section is exercised with respect to a country, the President is also authorized to

impose controls on imports from that country to the United States if he determines and reports to the Congress, in advance of imposition of such controls, that such controls are consistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade."

(2) by adding at the end of paragraph (1) of subsection (a) the following new sentence: "The President may not, under this section, prohibit or curtail the export or reexport of goods, technology, or other information in performance of a contract or agreement entered into before the date on which the President notifies Congress of his intention to impose controls pursuant to subsection (e) of this section on the export or reexport of such goods, technology, or other information to the intended destination or under any validated license or other authorization issued under this Act."

(3) in paragraph (2) of subsection (a) by striking "one year" each place it appears and inserting in lieu thereof, "6 months";

(4) by striking subsection (b) and inserting in lieu thereof the following:

"(b) **CRITERIA.**—The President may impose, expand, or extend export controls under this section only if he determines that—

"(1) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

"(2) such controls are compatible with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

"(3) the reaction of other countries to the imposition or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or counterproductive to United States foreign policy interests;

"(4) such controls will not have an extra-territorial effect on countries friendly to the United States adverse to overall United States foreign policy interests;

"(5) the cost of such controls to the export performance of the United States, to the competitive position of the United States in the international economy, to the international reputation of the United States as a supplier of goods and technology, and to individual United States companies and their employees and communities, taking into account the effects of the controls on existing contracts, does not exceed the benefit to United States foreign policy objectives; and

"(6) the United States has the ability to enforce the proposed controls effectively."

(5) by amending subsection (c) to read as follows:

"(c) **CONSULTATION WITH INDUSTRY.**—The Secretary in every possible instance shall consult with and seek advice from affected United States industries and appropriate advisory committees established under section 135 of the Trade Act of 1974 before imposing any control under this section. Such consultation and advice shall be with respect to the criteria set forth in paragraphs (1) through (6) of subsection (b) and such other matters as the Secretary considers appropriate."

(6) by striking subsection (e) and inserting in lieu thereof the following:

"(e) **CONSULTATION WITH CONGRESS.**—(1) The President in every possible instance shall consult with the Congress before imposing any export control under this sec-

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March 2, 1984

CONGRESSIONAL RECORD — SENATE

S 2255

tion. Except as provided in section 7(g)(3) of this Act, the President shall not impose, expand, or extend such controls until he has transmitted to the Congress a report specifying—

"(A) the purpose of the controls;

"(B) the determinations of the President with respect to each of the criteria set forth in subsection (b) and the bases for such determinations;

"(C) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means; and

"(D) whether the President is also exercising the authority to control imports as authorized by subsection (a), and if the President is not exercising such authority, an explanation of the reasons therefor.

"(2) Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 12(c) of this Act. Such report shall at the same time be submitted to the Congress also be submitted to the General Accounting Office for the purpose of assessing the report's full compliance with the intent of this subsection.

"(3) In the case of an extension of controls occurring at a 12-month interval after the initial imposition or expansion of controls, such report shall be submitted in writing. In the case of an extension of controls at a 6-month interval following the submission of a written report, such report need not be in writing but shall be presented by the Secretary in testimony before the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Foreign Affairs."

"(7) In subsection (f), by striking the period at the end of the first sentence and inserting in lieu thereof a comma and "or on donations of items intended to meet basic human needs such as food, educational materials, seeds and hand tools, medicines and medical supplies, water resources equipment, clothing and shelter materials, and basic household supplies.", and by striking the last sentence and inserting in lieu thereof the following: "This subsection shall not apply to any export control on medicine or medical supplies or food, except for donations of such items as those listed in the first sentence of this subsection, which is in effect on the date of enactment of the Export Administration Act Amendments of 1984."

"(8) In subsection (g), by inserting "(1)" after "FOREIGN AVAILABILITY.—", and by adding at the end of the subsection the following new paragraphs:

"(2) Prior to any extension of controls pursuant to paragraph (2) of subsection (a), the President shall evaluate the results of his actions under paragraph (1) of this subsection and shall include the results of that evaluation in his notification to Congress pursuant to subsection (e).

"(3) In the event that the President's efforts under paragraph (1) are not successful in securing such cooperation during a 6-month period when controls imposed under this section are in effect, in the subsequent 6-month period, if such controls are extended, the Secretary shall take into account the foreign availability of goods or technology subject to controls. If the Secretary affirmatively determines that a good or technology is available in comparable quantity and comparable quality from sources outside the United States to countries sub-

ject to such controls so that denial of the license would be ineffective in achieving the purposes of the controls, then the Secretary shall issue a license for the export of such goods or technology during the period of such foreign availability. The Secretary shall remove such goods or technology from the list established pursuant to subsection (k) if he determines such action is appropriate.

"(4) In making a determination of foreign availability under paragraph (3) of this subsection the Secretary shall follow the procedures specified in section 5(f)(3) of this Act."; and

"(9) by striking "commodity" in the first sentence, and by striking the second sentence of subsection (k) and inserting in lieu thereof "The Secretary shall clearly identify on the control list which goods and technical data and countries or destinations are subject to which types of controls under this section."

SHORT SUPPLY CONTROLS

SEC. 7. Section 7 of the Export Administration Act of 1979 is amended—

(1) in subsection (d)(2)(B) by striking out "concurrent" and inserting in lieu thereof "joint";

(2) by striking subsection (j);

(3) by striking in the second sentence of paragraph (1) of subsection (e) "5" and insert in lieu thereof "10";

(4) in paragraph (1) of subsection (i), by striking "validated" in the first sentence and inserting in lieu thereof "export";

(5) by redesignating paragraphs (2), (3) and (4) as paragraphs (3), (4) and (5), respectively, and inserting the following new paragraph:

"(2) To the maximum extent practicable, the Secretary shall utilize the multiple validated export licenses described in section 4(a)(2) of the Act in lieu of a validated license for exports under this subsection."

(6) in paragraph (4) of subsection (i) by striking paragraph (A) and inserting in lieu thereof the following:

"(A) lumber of American Lumber Standards Grades of Number 3 dimension or better, or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better";

(7) by striking subsection (j) and inserting in lieu thereof the following:

"(j) EFFECT OF CONTROLS ON EXISTING CONTRACTS.—Any export controls imposed under this section shall not affect any contract to export entered into before the date on which controls are imposed, including any contract to harvest unprocessed western red cedar (as defined in subsection (i)(4) of this section) from state lands, the performance of which contract would make red cedar available for export. For purposes of this subsection, the term "contract for export" includes, but is not limited to, an export sales agreement and an agreement to invest in an enterprise which involves the export of goods or technology."; and

(8) the amendment made by subsection (7) shall apply to export controls in effect on the date of the enactment of this Act and export controls imposed after such date.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

SEC. 8. Section 10 of the Export Administration Act of 1979 is amended—

(1) by striking out "60" each place it appears and inserting in lieu thereof "40";

(2) by striking out "90" each place it appears and inserting in lieu thereof "60";

(3) by striking out "30" each place it appears and inserting in lieu thereof "20";

(4) by inserting in paragraph (3) of subsection (f) after "the policies set forth in section 3 of this Act which would be furthered

by denial," the following: "what if any modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this Act, and which officers and employees of the Department of Commerce who are familiar with the application will be made reasonably available to the applicant for considerations with regard to such modifications or restrictions, if appropriate.";

(5) by striking paragraph (1) of subsection (g) and inserting in lieu thereof the following:

"(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology, whether by single or by multiple license, to any country to which exports are controlled for national security purposes, or where the Secretary of Defense, in consultation with the Secretary, determines on the basis of reliable evidence that goods or technology controlled pursuant to section 5 of this Act are likely to be diverted to proscribed destinations. Whenever the Secretary of Defense determines that the export of any such goods or technology will prove detrimental to the national security of the United States by making a significant contribution to the military potential of any such country the Secretary of Defense shall recommend to the President that such export be disapproved."

(6) in paragraph (2) of subsection (g), in the second sentence, by striking the following: "to any country to which exports are controlled for national security purposes";

(7) in paragraph (2) of subsection (g) by inserting after the first sentence the following: "If the Secretary and the Secretary of Defense are unable to concur on the types and categories of transactions or on any proposed export of goods or technology which should be referred to the Secretary of Defense for review, the matter shall be referred to the President for resolution."; and

(8) by adding at the end thereof the following:

"(k)(1) Beginning 180 days after the date of enactment of this subsection and every 6 months thereafter, the Secretary shall submit to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate a report listing in 2 sections—

"(A) all applications the processing of which was completed during the preceding 6 months and which required a period longer than the period permitted by this section before notification of a decision was sent to the applicant, and

"(B) all applications which have been in process for a period longer than the period permitted by this section and upon which final action has not been taken.

"(2) Each listing shall identify—

"(A) the application case number;

"(B) the value of goods covered by the application;

"(C) the country of destination;

"(D) the date the application was received by the department;

"(E) the date on which the Secretary granted or denied the application;

"(F) the date the notification was sent to the applicant; and

"(G) the total number of days which elapsed between receipt of the application in acceptable form and the cut-off date of the report, or the date that notification of decision was sent, whichever is earlier.

"(3) For an application which was referred to other agencies, the listing shall also include—

S 2256

## CONGRESSIONAL RECORD — SENATE

March 2, 1984

"(A) the agencies to which referral was made;

"(B) the date or dates of referral; and

"(C) the date or dates recommendations were received from these agencies.

"(4) For an application referred to any other agency which has taken a period longer than the period permitted by this section to provide its recommendations, the listing shall also include—

"(A) the office responsible for processing the application and the position of the officer responsible for the office; and

"(B) the period required for processing by the office.

"(5) The report shall also provide an introduction which contains (A) a summary of the number and value of applications listed by length of process delay beyond the period permitted by this section (0-15 days; 16-30 days; 31-45 days; 46-60 days; more than 60 days delay), and (B) a summary by country of destination of the number and value of applications requiring more than 60 days to process."

## VIOLATIONS

SEC. 9. Section 11 of the Export Administration Act of 1979 is amended—

(1) by inserting in subsection (a) after "violates" the following: "or conspires to or attempts to violate";

(2) by striking in paragraph (1) of subsection (b) "exports anything contrary to" and inserting in lieu thereof "violates or conspires to or attempts to violate";

(3) by inserting in paragraph (1) of subsection (b) after "benefit of" the following: "or that the destination or intended destination of the goods or technology involved is", and by striking "restricted" and inserting in lieu thereof "controlled";

(4) by adding at the end of paragraph (1) of subsection (b) the following new sentence: "For purposes of this subsection, a country to which exports are controlled for national security purposes is one identified pursuant to the determinations made in accordance with section 5(b) of this Act.";

(5) by inserting after paragraph (2) of subsection (b) the following new paragraphs:

"(3) Whoever possesses any goods or technology with the intent to export them contrary to this Act or any regulation, order, or license issued thereunder shall be subject to the penalties as provided in subsection 11(a), except for a national security violation which would be subject to the penalties as provided in section 11(b)(1).

"(4) Nothing in this subsection or subsection (a) shall limit the power of the Secretary to define by regulations violations under this Act."

(6) in subsection (c), by striking out "head and all that follows through 'thereof'" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)";

(7) by adding at the end of subsection (c) the following new paragraphs:

"(3) In addition to any other authority under this Act, the Secretary may revoke or suspend the authority to export of any person convicted of a violation of any other provision of Federal law arising out of the export of goods or technology prohibited by or under this Act.

"(4) (A) Any person who violates any national security control imposed under section 5 of this Act, or any regulations, order, or license issued pursuant thereto may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

"(B) Except as otherwise provided by law, any person who violates any regulation

issued pursuant to a multilateral agreement, formal or informal, to control exports for national security purposes, to which the United States is a party, may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe only if—

"(i) negotiations with the government or governments, party to the multilateral agreement, with jurisdiction over the violation have been conducted and been unsuccessful in restoring compliance with the regulations of the multilateral agreement;

"(ii) the President, subsequent to the failure of such negotiations, has notified such government or governments and the other parties to the multilateral agreement of any proposal to subject the person violating the regulations to specific controls on the importing of goods or technology into the United States upon the conclusion of 60 days from the date of such notification; and

"(iii) a majority of the parties to the multilateral agreement (excluding the United States) prior to the expiration of such 60 day period, have expressed to the President concurrence in the import controls or have abstained from stating a position with respect to the proposed controls.

"(5) The President may provide by regulation standards for establishing levels of civil penalty as provided in this subsection based upon the seriousness of the violation, the culpability of the violator, and the violator's record of cooperation with the government in disclosing the violation."

(8) by inserting in subsection (e) after "subsection (c)" the words "or any amounts realized from the forfeiture of property interest or proceeds forfeited pursuant to subsection (g)", and by inserting after "refund any such penalty" the words "imposed pursuant to subsection (c)";

(9) by striking out the second sentence of subsection (f) and inserting in lieu thereof "In any such action with respect to enforcement of section 8, the court shall determine de novo all issues necessary to the establishment of liability;

(10) by redesignating subsection (g) as subsection (i) and inserting the following new subsections:

"(g) **FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.**—(1) Whoever has been convicted of a national security export control violation under subsection (a) or (b) shall, in addition to any other penalty, forfeit to the United States—

"(A) any of his interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

"(B) any of his interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

"(C) any of his property constituting, or derived from, any proceeds obtained directly or indirectly as a result of such violations.

"(2) The procedures in any criminal forfeiture under this section, and the duties and authority of the courts of the United States and the Attorney General with respect to any criminal forfeiture action under this section or with respect to any property that may be subject to forfeiture under this section, are to be governed by the provisions of section 1963 of title 18, United States Code.

"(h) **PRIOR CONVICTIONS.**—No person convicted of a violation of section 793, 794, or 798 of title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778), shall be eligible at the discretion of the Secretary, to apply for or use any export license

for a period for up to ten years from the date of conviction. Any outstanding export license in which such person has an interest may be revoked at the discretion of the Secretary at the time of conviction."; and

(11) by striking "or" after "(d)," in subsection (i) as redesignated, and inserting after "(f)" the following: ", (g), or (h)".

## ENFORCEMENT

SEC. 10. Section 12 of the Export Administration Act of 1979 is amended—

(1) in subsection (a), by inserting "(1)" after "GENERAL AUTHORITY.—";

(2) in subsection (a), by striking "the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and", and inserting in lieu thereof "a district court of the United States";

(3) in subsection (a), by striking out "head" and all that follows through "thereof" and inserting in lieu thereof "Commissioner of the United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner), except with respect to section 8, and the Secretary of Commerce only with respect to section 8";

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels who has reasonable cause to suspect that any goods or technology have been or will be exported from the United States in violation of any Act governing exports may—

"(A) stop, search, and examine, within or without his district, a vehicle, vessel, aircraft, or person, on which or whom he has reasonable cause to suspect there are any such goods or technology, whether by the person in possession or charge or by, in, or upon such vehicle, vessel, aircraft, or otherwise;

"(B) search, wherever found, any package or container in which he has reasonable cause to suspect there are any such goods or technology;

"(C) seize and secure for trial any such goods or technology on or about vehicle, vessel, aircraft, or person, or in such package or container.

"(3)(A) An officer of the United States Customs Service of the Department of the Treasury or other person authorized to board or search vessels may, while in the performance of, and in connection with, official duties, make arrests without warrant in the enforcement of the provisions of any Act governing exports. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws.

"(B) If such officer or person has reasonable cause to suspect that any goods or technology have or would have been exported from the United States in violation of any Act governing exports, the officer or person shall refer such matter to the Secretary of the Treasury, or his designee, or the Attorney General for civil or criminal action, respectively, in accordance with this section."

(5) in the first sentence of paragraph (3) of subsection (c), by striking out "department or agency with enforcement responsibilities under this Act" and inserting in lieu thereof "United States Customs Service of the Department of the Treasury (and officers or employees of the Service specifically designated by the Commissioner)"; and

(6) by inserting in subsection (c)(3): "including information pertaining to subjects of ongoing investigations," after "enforce-



March 2, 1984

## CONGRESSIONAL RECORD — SENATE

S 2257

ment of this Act" in the first sentence; and by adding at the end thereof, the following: "The Secretary shall consult on a continuing basis with the Attorney General, the Commissioner of Customs, and the heads of other departments and agencies which obtain information subject to this paragraph to facilitate the sharing of such information."

## ANNUAL REPORT

SEC. 11. Section 14 of the Export Administration Act of 1979 is amended—

(1) by inserting "AND QUARTERLY" after "ANNUAL" in the section heading; and

(2) by adding at the end thereof the following:

"(d) **FOREIGN AVAILABILITY REPORT.**—The Secretary and the Secretary of Defense shall jointly prepare and transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives quarterly reports on the operation and improvement of the Government's ability to assess foreign availability, including but not limited to training of personnel, use of computers, and utilization of Foreign Commercial Service Officers, and on the operation and improvement of the Government's efforts to eliminate foreign availability, including but not limited to bilateral and multilateral negotiations.

"(e) **REPORT ON EXPORT TO PROSCRIBED COUNTRIES.**—The President shall include in each annual report a detailed report which lists every license during the year approved under the provisions of this Act for exports to countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. Such report shall specify to whom such license was granted, the type of good or technology exported, and the country receiving such good or technology.

"(f) **REPORT ON DOMESTIC ECONOMIC IMPACT OF EXPORTS TO PROSCRIBED COUNTRIES.**—The President shall include in each annual report a detailed description of the extent of injury of United States' industry and the extent of job displacement caused by United States' exports of goods and technology to controlled countries to which exports are controlled by multilateral agreement, formal or informal, to which the United States is a party. This report shall also include a full analysis of the consequences of exports of turnkey plants and manufacturing facilities to such countries which are used by such countries to produce goods for export to the United States or to compete with United States products in export markets."

## UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION

SEC. 12. (a) Section 15 of the Export Administration Act of 1979 is amended—

(1) by inserting "ADMINISTRATIVE AND" before "REGULATORY" in the caption;

(2) by designating the matter following "Sec. 15." as subsection (b);

(3) by inserting after "Sec. 15." the following:

"(a) The President shall appoint, by and with the advice and consent of the Senate, an Under Secretary of Commerce for Export Administration who shall carry out all functions of the Secretary of Commerce under this Act which were delegated to the office of the Assistant Secretary of Commerce for Trade Administration prior to the effective date of the Export Administration Act Amendments of 1984 and such other functions as the Secretary may prescribe. The Secretary of Commerce shall designate three Assistant Secretaries of Commerce to assist the Under Secretary in carrying out such functions."; and

(4) by adding after subsection (b) as redesignated the following new subsection:

"(c) If the Secretary proposes to alter regulations issued pursuant to this Act he shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives on the intent and rationale of such alterations. Such report shall evaluate the cost and burden to United States exporters of the proposed regulations relative to any enhancement of licensing objectives. The technical advisory committees authorized under paragraph (h) of section 5 of this Act shall be consulted in the development of or alterations to regulations issued under this subsection. The concepts and procedures defined by regulations in existence as of June 29, 1983, with respect to sections 4 and 5 of this Act, shall remain in effect unless the Secretary determines, on the basis of a body of reliable evidence, that specific change is necessary to enhance the system's ability to prevent diversions endangering the national security or to streamline the licensing and paperwork burden on exporters and their distributors."

(b) Section 5314 of title 5, United States Code, is amended by inserting "Under Secretary of Commerce for Export Administration," before "and Under".

(c) Section 5315 of such title is amended by striking out

"Assistant Secretaries of Commerce (8)."

and inserting in lieu thereof

"Assistant Secretaries of Commerce (10)."

REVIEW AND COMMENT BY THE SECRETARY OF DEFENSE AND THE SECRETARY OF STATE

SEC. 13. Section 15 of the Export Administration Act of 1979 is amended by adding the following new sentence at the end thereof: "Any such regulations issued to carry out the provisions of section 5, or of section 4(a) for the purpose of administering the provisions of section 5, may be issued only following submission for review and comment to the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate."

## DEFINITIONS

SEC. 14. Section 16 of the Export Administration Act of 1979 is amended—

(1) by striking paragraph (4) and inserting in lieu thereof the following:

"(4) the term 'technology' means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in the design, production, manufacture, repair, overhaul, processing, engineering, development, operation, maintenance, or restoration of goods or commodities, including computer software. Information or know-how may take tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or take an intangible form, such as training or technical services;"

(2) in paragraph (3), by inserting after "article," "natural or manmade substance,";

(3) by redesignating paragraph (5) as paragraph (8), and by inserting the following new paragraphs:

"(5) the term 'export of goods' means—

"(A) an actual shipment or transmission of goods out of the United States, or

"(B) an actual shipment or transmission of goods, or portions thereof, originally exported from the United States to any destination other than that indicated to the appropriate United States authority as the initial destination of the goods at the time of the original export from the United States;"

"(6) the term 'export of technology' means—

"(A) an actual shipment or transmission of technology out of the United States;

"(B) any release of technology of United States origin in a foreign country; or

"(C) any release of technology in the United States with the knowledge or intent that it will be shipped or transmitted to a foreign country;" and

"(7) the term 'United States' means the States of the United States, its commonwealths, territories, dependencies, possessions, and the District of Columbia, including foreign trade zones and the Outer Continental shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act;"

## OFFICE OF STRATEGIC TRADE

SEC. 15. The Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

## "OFFICE OF STRATEGIC TRADE"

"SEC. 25. The President shall submit to the Congress, not later than March 15, 1985, a proposal to create an Office of Strategic Trade. In developing his proposal, the President shall take into account, among other things, the need for better coordination of export licensing responsibilities and procedures, improved enforcement of this Act and other laws that provide authority to impose controls on exports, strengthening traditional representation of the United States in the Coordinating Committee for Multilateral Export Controls (COCOM), thorough monitoring and analysis of data relating to technology and technological transfer, evaluation of technological changes that are relevant to the export licensing process, and more effective liaison with the business community and others affected by the export licensing process."

## SMALL BUSINESS ASSISTANCE

SEC. 16. Section 10 of the Export Administration Act of 1979 is amended by adding at the end thereof the following new section:

"(k) **SMALL BUSINESS ASSISTANCE.**—Not later than 120 days after enactment of this subsection, the Secretary of Commerce shall develop and transmit to the Congress a plan to assist small businesses in the export licensing application process. The plan shall include, among other things, arrangements for counseling small businesses on filing applications and identifying goods or technology on the control list, proposals for seminars and conferences to educate small businesses on export controls and licensing procedures, and the preparation of informational brochures."

## AMENDMENT TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

SEC. 17. Section 203(a)(1) of the International Emergency Economic Powers Act (50 U.S.C. 1202) is amended—

(1) by striking out "and" at the end of paragraph (A);

(2) by inserting "and" at the end of paragraph (B); and

(3) by adding the following new paragraph:

"(C) impose controls on exports of goods or technology from United States companies, or their subsidiaries or licensees operating outside the United States;"

## AUTHORIZATION

SEC. 18. Section 18 of the Export Administration Act of 1979 is amended by striking paragraph (1) of subsection (b) and inserting in lieu thereof:

"(1) \$11,610,000 for each of the fiscal years 1984 and 1985, and"

## TERMINATION DATE

SEC. 19. Section 20 of the Export Administration Act of 1979 is amended by striking

out "March 30, 1984", and insert in lieu thereof "September 30, 1989".

#### AMENDMENT TO MAGNUSON ACT

SEC. 20. Clause (viii) of section 201(e)(1)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(e)(1)(E)) is amended by inserting "fishery" before "matters".

#### TERRORISM

SEC. 21. Section 6 (i) of the Export Administration Act of 1979 is amended to read as follows:

"(i)(1) Countries Supporting International Terrorism.—The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before any license is approved for the export of goods or technology valued at more than \$7,000,000 to any country concerning which the Secretary of State has made the following determinations:

"(A) Such country has repeatedly provided support for acts of international terrorism.

"(B) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

"(2) Any such determination which has been made with respect to a country under paragraph (1) of this subsection may not be rescinded unless the President, at least 30 days before the proposed rescission would take effect, submits to the Congress a report justifying the rescission and certifying that—

"(A) the country concerned has not provided support for international terrorism, including support or sanctuary for any major terrorist or terrorist group in its territory, during the preceding six-month period; and

"(B) the country concerned has made explicit assurances that it will not support acts of international terrorism in the future.

"(3) A determination under paragraph (1) of this subsection with respect to any country which was made prior to January 1, 1982, and which was no longer in effect on the date of enactment of this paragraph, shall be reinstated upon the expiration of 90 days after the date of enactment of this subsection unless the President submits a report containing the certification described in paragraph (2) with respect to that country within such 90-day period."

#### ADMINISTRATIVE PROCEDURE

SEC. 22. Section 13 of the Export Administration Act of 1979 is amended by adding at the end thereof the following:

"(C) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—(1) In any case where a civil penalty or other civil sanction (other than a temporary denial order or a penalty or sanction for a violation of section 8) is sought under section 11 of this Act, the charged party is entitled to receive a formal complaint specifying the charges and, at his request, to contest the charges in a hearing before an administrative law judge. Prior to such hearing the charged party may submit a response to the complaint, including briefs and other supporting materials. The charged party and the Government may present and cross-examine relevant witnesses. With the approval of the administrative law judge, the Government may present evidence in camera in the presence of the charged party or his representative. The charged party may argue orally his case in recorded proceedings before the administra-

tive law judge who shall then make his findings of fact and conclusions of law in a written decision which shall be referred to the Secretary. The Secretary shall, in a written order, affirm, modify, or vacate the decision of the administrative law judge within 30 days after receiving it. All material submitted to the administrative law judge and the Secretary and all the recorded proceedings constitute the administrative record for purposes of review by the courts.

"(2) The proceedings described in paragraph (1) shall be concluded within a period of 1 year after the complaint is submitted unless the administrative law judge extends such period for good cause shown.

"(3) The order of the Secretary shall be final, except that the charged party may file an appeal within 15 days in the United States Court of Appeals for the District of Columbia and such court may stay an order of the Secretary under which a civil penalty or other sanction would be imposed. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence in the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6), 5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g) (1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(d) APPEALS FROM THE IMPOSITION OF TEMPORARY DENIAL ORDERS.—(1) In any case where necessary in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder, the Secretary may issue a temporary denial order without a hearing and such order may be effective no longer than 60 days unless renewed in writing by the Secretary for additional 60-day periods in order to prevent an imminent violation. A renewal may be granted only after notice and an opportunity for a hearing is provided.

"(2) A temporary denial order shall define the imminent violation and state why the order was granted without a hearing. The person or persons subject to the issuance or renewal of such an order may file an appeal with an administrative law judge who shall, within 10 working days after the appeal is filed, recommend that it be affirmed, modified, or vacated. Parties may submit briefs and other material to such judge. The administrative law judge's recommendation shall be made to the Secretary who shall either accept, reject, or modify it by written order within 5 working days after he receives it. The temporary denial order shall be affirmed only if it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of this Act or any rule or regulation thereunder. All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the Courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may be appealed within 15 days to the United States Court of Appeals for the District of Columbia. Such court shall have jurisdiction to issue an order vacating the Secretary's order if it finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, except that such court shall not have authority under this paragraph to review any action, finding, or determination pursuant to section 3, 4(c), 4(d), 4(f), 5(b), 5(d), 5(e), 5(f), 5(g), 5(h)(6),

5(k), 5(n), 6(b), 6(c), 6(d), 6(f), 6(g), 6(h), 6(j), 7(d), 7(e), 7(g) (1) and (2), 7(h), 7(i)(2), 9(b), 9(c), 10(f)(4), 10(g), 10(h), 10(i), or 12(c) of this Act.

"(e) APPEALS FROM LICENSE DENIALS.—A determination by the Secretary to deny a license pursuant to section 10(f) of this Act may be appealed by the applicant to an administrative law judge who shall have the authority in a proceeding under this paragraph to determine only whether the item sought to be exported is in fact on the control list. Such proceedings shall be conducted within 90 days. Any determination by an administrative law judge under this subsection and all materials filed before him in the informal proceeding shall be reviewed by the Secretary who shall either affirm or vacate it in a written decision within 30 days. The Secretary's written decision under this subsection shall be final and is not subject to judicial review. Subject to the limitations provided in section 12(c) of this Act, the Secretary's decision shall be published in the Federal Register.

"(f) APPOINTMENT OF ADMINISTRATIVE LAW JUDGES.—Any person who, for at least two of the ten years immediately preceding the effective date of this section has served as a hearing commissioner of the Department of Commerce, shall be considered as qualified for selection and appointment as an administrative law judge with the same status as if such appointment had been made under section 3105 of title 5, United States Code.

"(g) DEFINITION.—For the purpose of subsections (c), (d), and (e), the term 'Secretary' means the Secretary of Commerce or the Secretary of the Treasury, as appropriate."

#### AMENDMENT TO THE FOREIGN ASSISTANCE ACT OF 1961

SEC. 23. Section 502B of the Foreign Assistance Act of 1961 is amended (1) by striking the word "Committee" the first place it appears in paragraph (2) and inserting in lieu thereof "Committees"; and (2) by inserting after the words "Foreign Relations" the first place it appears the phrase "and Banking, Housing, and Urban Affairs (when licenses are to be issued pursuant to the Export Administration Act of 1979)".

#### EXPORT OF HORSES

SEC. 24. The Act of March 3, 1891 (46 U.S.C. 466a and 466b) is amended by adding at the end thereof the following:

"SEC. 3. (a) Notwithstanding any other provision of law, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under subsection (b).

"(b) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers, permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

"(c)(1) Whosoever knowingly violates this section or any regulation, order, or license issued hereunder shall be fined not more than five times the value of the consignment of horses involved or \$50,000, whichever is greater, or imprisoned not more than 5 years, or both.

"(2) The Secretary of Commerce, after notice and opportunity for an agency hearing on the record, may impose a civil penalty not to exceed \$10,000 for each violation of this section or any regulation, order, or license issued hereunder, either in addition to

March 2, 1984

## CONGRESSIONAL RECORD — SENATE

S 2259

or in lieu of any other liability or penalty which may be imposed."

#### RESTRICTIONS ON THE EXPORT OR RETRANSFER OF CERTAIN NUCLEAR COMPONENTS

SEC. 25. Notwithstanding any other provision of law, the United States Nuclear Regulatory Commission shall not license for export, and the Secretary of Energy shall not approve the retransfer of, any nuclear component, item, or substance which the Commission has determined, under section 109 of the Atomic Energy Act of 1954, to be especially relevant from the standpoint of export control because of its significance for nuclear explosive purposes if such export or retransfer is to any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such export or retransfer is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that—

(1) the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(A) determines and so states in an Executive order that withholding the export or retransfer of such component, item, or substance would be seriously prejudicial to the national security of the United States; and

(B) submits to the Congress a report setting forth such determination, together with his reasons therefor; and

(2) nothing in this section shall preclude the licensing for export or the approval of retransfer of graphite contained in fabricated non-nuclear commercial products or up to 25 kilograms of heavy water per year to any country for medical or non-nuclear end-uses.

#### RESTRICTIONS ON THE EXPORT OF NUCLEAR TECHNOLOGY

SEC. 26. Notwithstanding any other provision of law, the Secretary of Energy shall give no authorization under section 57 b. of the Atomic Energy Act of 1954 to engage, directly or indirectly, in the production of any special nuclear material in any non-nuclear-weapon state, within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow on July 1, 1968), unless such state maintains International Atomic Energy Agency safeguards on all of its nuclear facilities and such production is under the terms of an agreement for cooperation arranged pursuant to section 123 of such Act, except that the prohibition contained in this section shall not apply beginning on a date 60 days after the President—

(a) determines and so states in an Executive order that withholding the authorization of such production would be seriously prejudicial to the national security of the United States; and

(b) submits to the Congress a report setting forth such determination, together with his reasons therefor.

#### AUTHORIZATION OF CERTAIN AGREEMENTS FOR COOPERATION

SEC. 27. (a) Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended—

(1) in subsection b., by inserting ", except as provided in subsection d." after "approved and"; and

(2) by amending subsection d. to read as follows:

"d. the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54 a., 103, or 104 in rela-

tion to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President and together with a Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, when required by subsection 123 a., and referred to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective unless authorized by law."

(b) Section 130 a. of such Act (42 U.S.C. 2159(a)) is amended—

(1) in the first sentence—

(A) by striking out "123 d."; and

(B) by striking out ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,"; and

(2) in the proviso thereto, by striking out "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

(c) The amendment made by subsection (a) shall apply to any agreement of cooperation which is described by such amendment and which was entered into after the date of enactment of this Act.

#### CONTROLS ON AGRICULTURAL COMMODITIES

SEC. 28. (a) Section 6 of the Export Administration Act of 1979 is amended—

(1) by adding at the end of subsection (a)(1) the following: "The President may impose or propose to extend export controls under this section on agricultural commodities, other than in connection with the prohibition or curtailment of all exports, in accordance with the procedures set forth in subsection (1) and the other requirements of this section"; and

(2) by adding at the end thereof the following:

"(1) AGRICULTURAL COMMODITIES.—(1) If the President imposes export controls or proposes to extend export controls which have been imposed, on any agricultural commodity to carry out the policy set forth in subparagraph (B) or subparagraph (C) of paragraph (2) or paragraph (7) or (8) of section 3 of this Act, the President shall immediately transmit a report on such action to the Congress, setting forth the reasons therefor in detail and specifying the length of time the controls are proposed to be in effect which may not exceed 6 months.

"(2) In the case of export controls imposed by the President—

"(A) if the Congress, within 60 days after the date of its receipt of the report under paragraph (1), adopts a joint resolution pursuant to paragraph (4) approving the imposition of export controls, then such controls shall remain in effect for the period specified in the report, for 6 months after the close of the 60-day period, or until terminated by the President, whichever occurs first; or

"(B) if the Congress, within 60 days after the date of its receipt of such report, fails to

adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of such 60-day period.

"(3) In the case of export controls proposed to be extended—

"(A) if the Congress adopts a joint resolution approving a proposed extension of export controls prior to the expiration of the applicable period described in paragraph (2)(A) or this subparagraph, then such controls shall be extended for the period specified in the report, for 6 months after the date of enactment of the joint resolution of approval, or until terminated by the President, whichever occurs first; or

"(B) if the Congress fails to adopt a joint resolution approving a proposed extension of controls prior to the expiration of the applicable period described in paragraph (2)(A) or subparagraph (A) of this paragraph, then such controls shall cease to be effective upon the expiration of the applicable period.

"(4)(A) For purposes of this paragraph, the term 'resolution' means only a joint resolution the matter after the resolving clause of which is as follows: 'That, pursuant to section 6(1) of the Export Administration Act of 1979, the President may impose, expand, or extend export controls as specified in the report to the Congress on . . . with the blank space being filled with the appropriate date.

"(B) On the day on which a report is submitted to the House of Representatives and the Senate under paragraph (1), a resolution with respect to such report shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a report is submitted, the resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

"(C) All resolutions introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs and all resolutions introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

"(D) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction the committee shall be discharged from further consideration of the resolution or of any other resolution introduced with respect to the same matter.

"(E)(i) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

"(iii) Motions to postpone, made in the House of Representatives with respect to



## S 2260

## CONGRESSIONAL RECORD — SENATE

March 2, 1984

the consideration of a resolution, and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

"(v) Except to the extent specifically provided in the preceding provisions of this subparagraph, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

"(F)(i) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between and controlled by the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(iv) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

"(G) In the case of a resolution described in subparagraph (A), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House."

(b) Section 7(a)(1) of such Act is amended by adding at the end thereof the following: "The President may impose, expand, or extend export controls under this section with respect to agricultural commodities only as provided in section 6(1)."

## AUTHORIZATION FOR CUSTOMS SERVICE

SEC. 29. (a) There are authorized to be appropriated to the United States Customs Service, Department of the Treasury, to carry out the purposes of the Export Administration Act of 1979, \$12,000,000 for each of the fiscal years 1984 and 1985.

(b) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 90 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry,

(4) reduce the number of employees assigned to any office of the United States Customs Service or any port of entry, or

(5) reclassify or reassign employees of the United States Customs Service from traditional commercial functions.

## STUDY BY THE SECRETARY OF AGRICULTURE

SEC. 30. The Secretary of Agriculture is directed to submit to Congress a report on the status of Federal programs relating to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries. This report shall include details of any changes necessary in existing law to allow the United States Department of Agriculture to fully implement any barter program and shall be submitted within 90 days of enactment of this Act.

## POLICY ON NUCLEAR NONPROLIFERATION

SEC. 31. It is the sense of the Congress that the President should take immediate action to—

(1) confer on an urgent basis with other nuclear suppliers, as a first step toward achieving a new worldwide consensus on nuclear transfers, regarding tightening restrictions on dangerous nuclear trade through measures which include—

(A) establishing, while discussions on a new regime for nuclear trade proceed, a temporary worldwide moratorium on transfers of enrichment and reprocessing equipment and technology, even at the experimental level, to sensitive areas, including the Middle East and South Asia;

(B) limiting the size of all research reactors transferred, eliminating the use of high enriched uranium in such reactors, and obtaining the return of spent research reactor fuel to the country of origin;

(C) extending the list of sensitive nuclear equipment, including components and dual use items, whose export the suppliers only permit under safeguards, with public recording of all sales of such items;

(D) making nuclear transfers only to nations which have accepted full-scope safeguards; and

(E) imposing established sanctions in the event of violation of safeguards;

(2) develop with other members of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") a strong and effective program for the improvement of the IAEA safeguards regime, specifically considering the practicality of—

(A) extending the concept of full-scope safeguards to mean safeguards on all nuclear materials, equipment, and facilities within a nonnuclear-weapon state whether or not such materials, equipment, and facilities have been formally declared to the IAEA;

(B) increasing the quality and quantity of IAEA inspections;

(C) publishing inspection reports; and

(D) extending and upgrading surveillance and containment measures;

(3) formulate a clear United States policy on enhanced international restrictions on dangerous nuclear trade and on improving the international safeguards regime, and use all feasible leverage to induce others to adopt similar policies;

(4) call for a prompt reevaluation of world nuclear energy policy, culminating in a conference in order to agree upon ways both to reduce security concerns and to strengthen the nonproliferation regime; and

(5) reaffirm United States policy to cooperate with other countries, particularly in the developing world, to assist them in meeting their energy needs, with nonnuclear energy alternatives considered on an equal basis with nuclear energy in providing such cooperative assistance.

## MEMBERSHIP OF THE FEDERAL RESERVE BOARD OF GOVERNORS

SEC. 32. Since, small business, by Small Business Administration standards of measurement, accounts for 98 per centum of all United States businesses, and

Since, 60 per centum of all new jobs are created by firms with 500 or fewer employees, and

Since, small business bankruptcies in 1982 totaled nearly 66,000, due in large part to high interest rates, and many other firms closed down without filing for bankruptcy, and

Since, our agricultural industry, including 3,000,000 farmers, is heavily dependent upon credit, and

Since, neither of these sectors has direct representation on the Federal Reserve Board, which establishes our national monetary policy, and

Since, the growth of our national economy depends on the health of the small business and agricultural sectors; Now, therefore, be it

Stated that it is the sense of the Senate that the President should nominate to the next vacancy on the Federal Reserve Board of Governors a person of demonstrable experience in small business or agriculture.

## CRUDE OIL COMMISSION

SEC. 32. (a)(1) There is established a Presidential Advisory Commission to Study the Export of Crude Oil (hereinafter referred to as the "Commission") composed of seven members appointed by the President. No person shall be appointed who has, or is a member of a company or organization which has, any direct monetary interest in domestic or foreign oil exploration, production, transportation, importation or exportation.

(2) The President shall designate from among the members a Chairman and Vice Chairman. Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as the original appointments.

(3) Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act and shall serve for the life of the Commission. Members appointed to the Commission shall take office upon the date of their appointment.

(b) The Commission shall—

(1) undertake a comprehensive review of the issues and related data concerning exports of crude oil, particularly Alaska North Slope crude oil, at free market levels, under current prohibitions, and at levels of 50,000 barrels per day, 200,000 barrels per day, and 500,000 barrels per day, including, but not limited to—

(A) the effect of such exports on the energy and national security of the United States and its allies;

(B) the role of such exports in United States foreign policymaking, including international energy policymaking;

(C) the impact of such exports on employment levels in the maritime industry, the oil industry, and other industries;

(D) the impact of such exports on the average consumer;

(E) the impact of such exports on Federal Government revenues and expenditures;

(F) the effect of such exports on incentives for oil and gas exploration and development in the United States; and

(G) the legal impediments to such exports, particularly section 7(d) of the Export Administration Act of 1979;

(2) develop, after consulting with appropriate State and Federal officials and other

March 2, 1984

## CONGRESSIONAL RECORD — SENATE

S 2261

persons at the discretion of the Commission, findings, options, and recommendations regarding the export of oil, particularly Alaska North Slope crude oil, which shall be made to the President not later than January 1, 1985; and

(3) undertake additional related tasks and make interim reports of its activities and recommendations as the President may determine necessary.

(c)(1) The Commission may make appropriate rules respecting its organization and procedures, except that no recommendation shall be reported from the Commission unless a majority of the Commission assents.

(2) The Chairman of the Commission may appoint and compensate staff personnel, without regard to the provisions of title 5, United States Code, government appointments in the competitive services, and the provisions of chapter 51 and subchapter 111 of chapter 53 of such title, relating to classifications and the General Schedule pay rates.

(3)(A) Subject to paragraph (B), the members of the Commission may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission.

(B) Any member may decline the reimbursement of expenses.

(4) The Commission is authorized to—

(A) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(B) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission to the extent or in such amounts as are provided in appropriation Acts.

(5) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(d)(1) The Commission shall submit a final report to the President not later than January 1, 1985, concerning the findings, options, and recommendations it develops with respect to the matters described in subsection (b).

(2) The Commission shall terminate within 30 days following the submission of the final report.

(e) In response to the Commission's report, the President shall develop recommendations on the export of crude oil, particularly on the advisability of retaining section 7(d) of the Export Administration Act. He shall submit the Commission's report and his recommendations to Congress not later than March 1, 1985.

(f) There are authorized to be appropriated in any fiscal year such sums as may be necessary to carry out the provisions of this section.

(g) Except where inconsistent with this section, the provisions of the Federal Advisory Committee Act shall apply to the Commission.

## WHEAT IMPROVEMENT ACT OF 1984

SEC. 33. It is the sense of the Senate that the following should be enacted by the Congress:

## "TITLE II—WHEAT

"SEC. 201. This title may be cited as the 'Wheat Improvement Act of 1984'.

## "TARGET PRICES

"SEC. 202. Section 107B(b)(1)(C) of the Agricultural Act of 1949 is amended by striking out '\$4.45 per bushel for the 1984 crop, and \$4.65 per bushel for the 1985 crop' and inserting in lieu thereof '\$4.38 per bushel for the 1984 crop, and \$4.38 per bushel for the 1985 crop'.

## "1984 AND 1985 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

"SEC. 203. Section 107B(e) of the Agricultural Act of 1949 is amended by—

"(1) striking out in the first sentence of paragraph (1)(A) 'subparagraph (B)' and inserting in lieu thereof 'subparagraphs (B), (C) and (D)';

"(2) adding at the end of paragraph (1) the following new subparagraphs:

"(C) Notwithstanding any previous announcement to the contrary, for the 1984 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 30 per centum, consisting of a reduction of 20 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1984 crop of wheat, the producers on a farm must comply with the terms and program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing. The closing date for sign-up in such programs shall not be earlier than March 30, 1984.

"(D) For the 1985 crop of wheat, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of not less than 30 per centum, consisting of a reduction of not more than 20 per centum under the acreage limitation program and a reduction of not less than 10 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1985 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program. The Secretary shall permit all or any part of the reduced acreage under the acreage limitation program and diversion program to be devoted to hay and grazing."

"(3) adding at the end of paragraph (4) the following: 'For the 1984 and 1985 crops of wheat, in making the determination specified in the preceding sentence the Secretary shall treat land that has been farmed under summer fallow practices in the same manner as such land was treated by the Secretary for purposes of making such determination for the 1983 crop of wheat.'; and

"(4) inserting at the end of paragraph (5) the following: 'Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1984 crop of wheat under which the Secretary shall make crop retire-

ment and conservation payments to any producer of the 1984 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than \$3 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1984 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producers shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out a payment-in-kind acreage diversion program for the 1984 crop of wheat in addition to the land diversion program required under this paragraph, the Secretary shall make available to producers compensation in kind at a rate equal to not less than 85 per centum of the farm program payment yield. Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1985 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1985 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to not less than 10 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this sentence. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under the preceding sentence. The diversion payment rate shall be established by the Secretary at not less than \$3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1985 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under the preceding sentence, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance. Notwithstanding any previous announcement to the contrary, in carrying out

*March 2, 1984*

### "ADVANCE PAYMENTS

### DROUGHT ASSISTANCE

### EFFECT ON OTHER ACTS

## MESSAGES FROM THE PRESIDENT

**EXECUTIVE MESSAGES  
REFERRED**

## MESSAGES FROM THE HOUSE

By Mr. PROXMIRE:

S. 2385. A bill providing for the reappoint-  
01629R000701390022-4 nt rank: